ಬೆಂಗಳೂರು ನೀರು ಸರಬರಾಜು ಮತ್ತು ಒಳಚರಂಡಿ ಮಂಡಳಿ

BANGALORE WATER SUPPLY AND SEWERAGE BOARD

Office of the Chief Engineer (K-O&M), 6th Floor, Cauvery Bhavan, K.G.Road, Blore-560 009.

BWSSB/CE(K-O&M)TE/TA01/48/2022/ 229 **/2023-24.** **Date:** 8/06/2023

Addendum No. 3

(Through Karnataka Public procurement Portal)

https://kppp.karnataka.gov.in

Sub: Work of Supplying and Laying of RAW Water Transmission Main From Shiva Anicut to Shiva Balancing Reservoir (SBR)- 3200mm ID MS Pipe of Length 2.5 km.

Ref: 1. IFT No.BWSSB/CEK(O&M)TE/TA-01/111/2020/115/2023-24 Dated:15 /05 /2023

2.Tender No. BWSSB/2023-24/WS/WORK_INDENT1

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Adverting to the above subject, below mentioned Govt. orders regarding Restrictions on public procurement from bidders of certain Counties are part of bid documents and this is for your information.

1. G.O No. FD 455 Exp-12 2020 Bangaluru, Dtd:25.08.2020.
2. G.O No. FD 455 Exp-12 2020 Bangaluru, Dtd:29.03.2021

Chief Engineer (K-O&M)
BWSSB

GOVERNMENT OF KARNATAKA

No:FD 455 Exp-12/2020

Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated: 29.03.2021.

CIRCULAR

Sub : Restrictions on Public Procurements from Bidders of certain Countries – Reg.

Ref : 1. GoI Order F.No.6/18/2019-PPD, dated: 23.07.2020.
2. G.O.No:FD 455 Exp-12/2020, Bengaluru, dated:25.08.2020.
3. O.M.No:F.12/1/2021-PPD(Pt.), dated: 02.03.2021 of GoI.

* * * * *

Attention is invited to the Government Orders cited at reference (1) and (2) above. Further, Government of India Vide O.M. cited at (3) above has issued clarifications regarding registration of bidders from a country which shares a land border with India, with the competent authority, which are reiterated as below:

> *"In this regard, it is now decided that procurement of spare parts and other essential service support like Annual Maintenance Contract (AMC)/Comprehensive Maintenance Contract (CMC), including consumables for closed systems, from Original Equipment Manufacturers (OEMs) or their authorized agents, shall be exempted from the requirement of registration as mandated under Government Order No: FD 455 Exp-12/2020, Bengaluru, dated:28.08.2020."*

Accordingly, all the procurement entities as defined under Section 2(d) of KTPP Act are hereby directed to incorporate above directions suitably in the tender documents and follow them scrupulously.

(I.S.N.PRASAD)
Additional Chief Secretary to Government
Finance Department

. . .2

To:

1. The Chief Secretary/Additional Chief Secretaries to Government.
2. The Principal Secretaries and Secretaries to Government.
3. The Accountant General (A&E), Karnataka, Bengaluru.
4. The Secretary, Karnataka Legislative Assembly/Council.
5. The Registrar, Karnataka High Court, Bengaluru.
6. The Registrar, Karnataka Lokayukta, Bengaluru.
7. The Secretary, Karnataka Public Service Commission, Bengaluru.
8. All the Deputy Commissioners.
9. All the CEOs of Zilla Panchayats.
10. All the Heads of Departments.
11. All the CEOs of Boards and Corporations.
12. All Internal Financial Advisors.
13. All Joint Secretaries/Deputy Secretaries/Special Officers/Under Secretaries to Government, Finance Department.
14. Section Guard File/Spare Copies.

PROCEEDINGS OF THE GOVERNMENT OF KARNATAKA

Sub: Restrictions on Public Procurement from Bidders of certain Countries.

Ref:
1. GO No. FD 09 PCL 2004(I) Dated: 06-08-2005.
2. GO No. FD 09 PCL 2004(II) Dated: 06-08-2005.
3. GO No. FD 09 PCL 2004 (III) Dated: 06-08-2005.
4. Government of India letter no.6/18/2019-PPD dated: 23-07-2020.

Preamble:

Government of India has inserted sub rule (xi) under Rule 144 of the General Financial Rules, 2017 to provide for restrictions on Procurement from bidders from a Country or Countries or class of Countries on the grounds of defence of India or matters directly or indirectly related thereto, including national security. In the letter referred above, Government of India has directed all the State Governments to implement the Public Procurement order issued in this regard. In view of this, the matter has been examined in detail and Government of Karnataka has decided to implement the Public Procurement Order issued by Government of India.

Hence the following order,

Government Order No. FD 455 Exp-12 2020 Bengaluru Dated:25-08-2020

In view of the circumstances explained in the preamble, all the Procurement Entities as defined in Section 2(d) of KTPP Act, are hereby ordered to procure the required goods, works and services including consultancy services after observing the following directions:-

1. All the Procurement Entities shall ensure that any bidder from a country which shares a land border with India will be eligible to bid in

any procurement whether of goods, services (including consultancy services and non-consultancy services) or works (including turnkey projects) only if the bidder is registered with the Competent Authority as specified in **Annexure-1**.

2. The eligibility clauses as in **Annxure-2** enclosed herewith this order are to be inserted under Eligibility conditions in all the Tender Documents including the Standard Tender Documents wherever applicable for procurement of goods, works and services including consultancy services.

3. The Competent Authority for registration and the procedure to be followed for registration of the bidders in the State is as per **Annexure-1** appended to this order.

4. Registration granted by the Competent Authority of Government of India shall be valid for Procurements by the Procurement Entities of the State Government and its agencies also. No fresh registration by the Competent Authority of State Government is required in such cases for participating in the tenders called by these Entities.

5. Registration granted by the Competent Authority constituted by Government of Karnataka shall be valid only for procurement by Government of Karnataka and its agencies and shall not be valid for procurements by other States or by Government of India and their agencies/Public Enterprises etc., In the same way, the Registration granted by Competent Authority of the other State Government shall not be valid for the procurement by Procurement Entities of Government of Karnataka.

6. In transitional cases, wherein the tenders have been called and are at different stages of evaluation, it is hereby ordered to follow the procedure detailed herein below:

(i) Tenders where no contract has been concluded or no LoA has been issued so far shall be handled in the following manner:

a) In tenders which are yet to be opened, or where evaluation of technical bid or the first exclusionary qualificatory stage (i.e. the first stage at which the qualifications of tenderers are evaluated and unqualified bidders are excluded) has not been completed: No contracts shall be placed on bidders from such countries. Tenders received from bidders from such countries shall be dealt with as if they are non-compliant with the tender conditions and the tender shall be processed accordingly.

b) If the tendering process has crossed the first exclusionary qualificatory stage: if the qualified bidders include bidders from such countries, the entire process shall be scrapped and initiated *de novo*. The *de novo* process shall adhere to the conditions prescribed in this order.

(ii) In all the transitional cases, a certificate shall be obtained from the bidder whose bid is proposed to be considered or accepted in the following manner.

> *"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I hereby certify that this bidder is not from such a country and is eligible to be considered."*

(iii) In such transitional cases where it is felt that it will not be practicable to exclude bidders from a country which shares a land border with India, a reference seeking permission to consider such bidders shall be made by the Procurement Entity to the Competent Authority giving full information and detailed reasons. The Competent Authority shall decide whether such bidders may be considered, and if so, shall follow the procedure laid down in the above paras.

7. This order shall not apply to the following cases:

(i) The cases where orders have been placed or contract has been concluded or letter of Intent/notice of award/letter of Acceptance (LoA) has been issued on or before the date of this order.

(ii) Till 31st December 2020, Procurement of Medical Supplies directly related to containment of the covid-19 pandemic.

(iii) *Bona fide* small procurements made through GeM without knowing the country of the bidder till the date fixed by GeM for this purpose.

(iv) *Bona fide* small procurements made without knowing the country of the bidder.

(v) In projects which receive international funding with the approval of the Department of Economic Affairs (DEA), Ministry of Finance, the Procurement Guidelines applicable to the project shall normally be followed, not withstanding anything contained in this order and without reference to the Competent Authority of Government of India and

Government of Karnataka. Any exceptions to this shall be decided in consultation with DEA.

(vi) The procurement by Indian missions and by offices of Government Agencies/undertakings located outside India.

(vii) Cases where there are bidders from those countries (even if sharing a land border with India) to which Government of India has extended lines of credit or in which the Government of India is engaged in development projects. For the updated list of countries to which lines of credit have been extended or in which development projects are undertaken, the Procurement Entities are advised to visit the website of the Ministry of External Affairs.

8. The provisions of this order shall apply to all the procurements including that of PPP Projects which receive financial support from Government or Public Sector Enterprises, undertaken by the Procurement Entities as defined in Section 2(d) of the KTPP Act. All the Procurement Entities are directed to incorporate mandatorily all these provisions in the tenders to be issued after the date of this order.

9. There is no change in the remaining clauses of the Standard Tender Documents.

By order and in the name of
Governor of Karnataka

(I.S.N. Prasad)
Additional Chief Secretary to Government
Finance Department

To:

The Compiler, Karnataka Gazette for Publication in the next issue of the Gazette.

Copy to:

1. The Chief Secretary/Additional Chief Secretaries to Government
2. The Principal Secretaries and Secretaries to Government
3. The Accountant General (A&E), Karnataka, Bengaluru
4. The Secretary, Karnataka Legislative Assembly/Council
5. The Registrar, Karnataka High Court, Bengaluru
6. The Registrar, Karnataka Lokayukta, Bengaluru
7. The Secretary, Karnataka Public Service Commission, Bengaluru
8. All the Deputy Commissioners
9. All the CEOs of Zilla Panchayats
10. All the Heads of Departments
11. All the CEOs of Boards and Corporations
12. All Internal Financial Advisors
13. Joint Secretaries/Deputy Secretaries/Special Officers/Under Secretaries to Govt., Finance Department
14. Section Guard File/Spare Copies.

Annexure-1

Competent Authority and Procedure for Registration

1. The Competent Authority for the purpose of registration of bidders under this Order has been constituted in the Department of Commerce & Industries, Government of Karnataka.

2. The Registration Committee shall have the following members:

    i. Principal Secretary/Secretary to Govt., Department of Commerce and Industries shall be the Chairman;
    ii. An officer not below the rank of Secretary to Govt., Home Department;
    iii. An officer not below the rank of Secretary to Govt., of those Departments whose Procurements are covered by applications under consideration;
    iv. Any other officer whose presence is deemed necessary by the Chairman of the Committee.

3. Department of Commerce and Industries shall lay down the method of application, format etc. for such bidders as stated in para (1) of this order.

4. On receipt of an application seeking registration from a bidder from a country covered by para (1) of this Order, the Competent Authority shall first seek political and security clearances from the Ministry of External Affairs and Ministry of Home Affairs, Government of India as per guidelines issued from time to time. Registration shall not be given unless political and security clearance have both been received.

5. The Department of Commerce & Industries in consultation with Home Department may issue guidelines for internal use regarding the procedure for scrutiny of such applications by them.

6. The decision of the Competent Authority, to register such bidder may be for all kinds of tenders or for a specified type(s) of goods or services, and may be for a specified or unspecified duration of time, as deemed fit. The decision of the Competent Authority shall be final.

7. Registration granted by the Competent Authority of the Government of Karnataka shall be valid only for procurements by

the Procurement Entities as defined in Section 2(d) of Karnataka Transparency in Public Procurements Act, 1999.

8. The Competent Authority is empowered to cancel the registration already granted if it determines that there is sufficient cause. Such cancellation by itself, however, will not affect the execution of contracts already awarded. Pending cancellation, it may also suspend the registration of a bidder, and the bidder shall not be eligible to bid in any further tenders during the period of suspension.

9. For national security reasons, the Competent Authority shall not be required to give reasons for rejection/cancellation of a bidder.

10. In transitional cases falling under para (6) of this Order, where it is felt that it will not be practicable to exclude bidders from a country which shares a land border with India, a reference seeking permission to consider such bidders shall be made by the procuring entity to the Competent Authority giving full information and detailed reasons. The Competent Authority shall decide whether such bidders may be considered, and if so shall follow the procedure laid down in the above paras.

11. The Competent Authority is required to send a quarterly report to the Cabinet Secretary, Government of India regarding the cases of registration given and denied.

I.S.N. PRASAD
Additional Chief Secretary to Govt.,
Finance Department

Annexure-2

1. Procurement Entities are required to incorporate the following under Eligibility Clauses and Sub Contract Clause in all the Tender Documents used for Procurement of Goods, Works and Services including Consultancy Services as detailed below:

Sl.No.	New Clause to be inserted in the tender documents
1	Any bidder from a country which shares a land with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority.
1.1	"Bidder" (including the term 'tenderer', 'consultant' or' service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
1.2	"Bidder from a country which shares a land border with India" for the purpose of this Order means:- a. An entity incorporated, established or registered in such a country; or
	b. A subsidiary of an entity incorporated, established or registered in such a country; or
	c. An entity substantially controlled through entities incorporated, established or registered in such a country; or
	d. An entity whose *beneficial owner* is situated in such a country; or
	e. An Indian (or other) agent of such an entity; or
	f. A natural person who is a citizen of such a country; or
	g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above

1.3	I. The *beneficial owner* for the purpose of above clause will be as under: (i) In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means. Explanation- a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five percent of shares or capital or profits of the company; b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
	(ii) In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
	(iii) In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
	(iv) Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
	(v) In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

1.4	An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
1.5	A certificate for having read the above clauses is required to be submitted / uploaded by the tenderer separately in the following format: *"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India; I certify that this bidder is not from such a country or, if from such a country, has been registered with the Competent Authority. I hereby certify that this bidder fulfills all requirements in this regard and is eligible to be considered. (Where applicable, evidence of valid registration by the Competent Authority shall be attached.)"*
1.6	**IN CASES WHERE SUB CONTRACTING IS PROVIDED:** A certificate is required to be submitted/ uploaded by the Tenderer in respect of sub contracting separately in the following format : *"I have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries; I certify that this bidder is not from such a country or, if from such a country, has been registered with the Competent Authority and will not sub-contract any work to a contractor from such countries unless such contractor is registered with the Competent Authority. I hereby certify that this bidder fulfills all requirements in this regard and is eligible to be considered. [Where applicable, evidence of valid registration by the Competent Authority shall be attached.]"*

2. In respect of procurements wherein the Standard Tender Documents are not specifically issued by the Finance Department, the Procurement Entities are directed to incorporate the above Clauses as Eligibility Conditions and Sub Contract provisions in the concerned tender documents.

L.S.N. PRASAD
Additional Chief Secretary to Govt.
Finance Department